

## § 531.201

531.610 Treatment of locality rate as basic pay.

531.611 Miscellaneous provisions.

### Subpart G [Reserved]

AUTHORITY: 5 U.S.C. 5115, 5307, and 5338; sec. 4 of Public Law 103-89, 107 Stat. 981; and E.O. 12748, 56 FR 4521, 3 CFR, 1991 Comp., p. 316; Subpart B also issued under 5 U.S.C. 5303(g), 5305, 5333, 5334(a) and (b), and 7701(b)(2); Subpart D also issued under 5 U.S.C. 5335 and 7701(b)(2); Subpart E also issued under 5 U.S.C. 5336; Subpart F also issued under 5 U.S.C. 5304 and 5305; E.O. 12883, 58 FR 63281, 3 CFR, 1993 Comp., p. 682; and E.O. 13106, 63 FR 68151, 3 CFR, 1998 Comp., p. 224.

### Subpart A [Reserved]

### Subpart B—Determining Rate of Basic Pay

SOURCE: 70 FR 31291, May 31, 2005, unless otherwise noted.

#### GENERAL PROVISIONS

#### § 531.201 Purpose.

This subpart contains regulations of the Office of Personnel Management (OPM) implementing 5 U.S.C 5332, 5333, and 5334, which deal with setting and adjusting rates of basic pay for General Schedule (GS) employees. These regulations are supplemented by regulations on GS within-grade increases in subpart D of this part; GS quality step increases in subpart E of this part; locality rates in subpart F of this part; special rates in 5 CFR part 530, subpart C; and grade and pay retention in 5 CFR part 536.

#### § 531.202 Coverage.

This subpart covers employees who occupy positions classified and paid under the GS classification and pay system, as provided in 5 U.S.C. 5102 and 5331 or other applicable laws. Law enforcement officers (LEOs) receiving LEO special base rates are covered by the GS classification and pay system, but receive higher base rates of pay in lieu of GS rates at grades GS-3 through GS-10. This subpart also covers GS employees who receive special rates under 5 U.S.C. 5305 and 5 CFR part 530, subpart C.

## 5 CFR Ch. I (1-1-11 Edition)

#### § 531.203 Definitions.

In this subpart:

*Agency* means an Executive agency as defined in 5 U.S.C. 105 or an agency in the legislative branch with employees covered by this subpart. To the extent that the regulations in this subpart relate to non-GS service in the Federal Government, *agency* includes any other agency in the Federal Government.

*Demotion* means a change of an employee, while continuously employed, from one GS grade to a lower GS grade, with or without a reduction in pay.

*Employee* means an employee as defined in 5 U.S.C. 2105 who is covered by this subpart. For the purpose of determining eligibility under the superior qualifications and special needs pay-setting authority in § 531.212 and applying the maximum payable rate provisions in §§ 531.216 and 531.221 (which consider rates of pay received during non-GS service in the Federal Government), *employee* also includes any employee as defined in 5 U.S.C. 2105 and—

(1) An individual employed by the U.S. Postal Service or the Postal Rate Commission who would be considered an employee under 5 U.S.C. 2105 but for the exclusion in section 2105(e); and

(2) An individual employed by a Department of Defense or Coast Guard nonappropriated fund instrumentality (as described in 5 U.S.C. 2105(c)) for service covered by § 531.216 (for the purpose of applying that section and §§ 531.211 and 531.212).

*Existing rate* means the rate received immediately before a pay action takes effect, after processing a general pay adjustment and any other simultaneous pay action that is higher in the order of precedence under § 531.206. For example, the *existing rate* immediately before a promotion action must reflect any geographic conversion under § 531.205 and any simultaneous within-grade increase or quality step increase.

*Federal Government* means all entities of the Government of the United States, including the U.S. Postal Service and the Postal Rate Commission. The District of Columbia is deemed to be part of the Federal Government with respect to employees of the government of the District of Columbia (DC) who were first employed by that government before October 1, 1987. A

Department of Defense or Coast Guard nonappropriated fund instrumentality (as described in 5 U.S.C. 2105(c)) is not considered part of the Federal Government except for the purpose of applying §§ 531.211 and 531.212 to employees covered by § 531.216 upon employment in a GS position.

*General Schedule* or *GS* means the classification and pay system established under 5 U.S.C. chapter 51 and subchapter III of chapter 53. It also refers to the pay schedule of GS rates established under 5 U.S.C. 5332, as adjusted under 5 U.S.C. 5303 or other law (including GS rates payable to GM employees). Law enforcement officers (LEOs) receiving LEO special base rates are covered by the GS classification and pay system but receive higher base rates of pay in lieu of GS rates at grades GS-3 through GS-10.

*GM employee* means a GS employee who was formerly covered by the Performance Management and Recognition System under 5 U.S.C. chapter 54 on October 31, 1993 (and therefore became covered on November 1, 1993, by section 4 of Pub. L. 103-89, the Performance Management and Recognition System Termination Act of 1993), and who continues thereafter to occupy a position as a supervisor or management official (as defined in 5 U.S.C. 7103(a)(10) and (11)) in the same grade of the General Schedule (GS-13, 14, or 15) and in the same agency without a break in service of more than 3 days. (See § 531.241.) Any reference to employees, grades, positions, or rates of basic pay under the General Schedule includes GM employees.

*GS rate* means a rate of basic pay within the General Schedule, excluding any LEO special base rate and additional pay of any kind such as locality payments or special rate supplements. A rate payable to a GM employee is considered a GS rate even though the rate may fall between GS step rates.

*Highest applicable rate range* means the rate range applicable to a GS employee based on a given position of record and official worksite that provides the highest rates of basic pay, excluding any retained rates. For example, a rate range of special rates may exceed an applicable locality rate range. In certain circumstances, the

*highest applicable rate range* may consist of two types of pay rates from different pay schedules—e.g., a range where special rates (based on a fixed dollar supplement) are higher in the lower portion of the range and locality rates are higher in the higher portion of the range.

*Law enforcement officer* or *LEO* has the meaning given that term in 5 CFR 550.103.

*LEO special base rate* means a special base rate established for GS law enforcement officers at grades GS-3 through GS-10 under section 403 of the Federal Employees Pay Comparability Act of 1990 (section 529 of Pub. L. 101-509, November 5, 1990, as amended) which is used in lieu of a GS rate.

*Locality payment* means a locality-based comparability payment payable to GS employees under 5 U.S.C. 5304 and 5 CFR part 531, subpart F.

*Locality rate* means a GS rate or an LEO special base rate, if applicable, plus any applicable locality payment.

*Official worksite* means the official location of the employee's position of record, as determined under 5 CFR 531.605.

*OPM* means the Office of Personnel Management.

*Payable rate* means the highest rate of basic pay to which an employee is entitled based on the employee's position of record, official worksite, and step (or relative position in range for a GM employee) or, if applicable, a retained rate.

*Pay schedule* means a set of rate ranges established for GS employees under a single authority—i.e., the General Schedule, an LEO special base rate schedule (for grades GS-3 through 10), a locality rate schedule based on GS rates, a locality rate schedule based on LEO special base rates (for grades GS-3 through 10), or a special rate schedule. A pay schedule applies to or covers a defined category of employees based on established coverage conditions (e.g., official worksite, occupation). A pay schedule is considered to apply to or cover an employee who meets the established coverage conditions even when a rate under that schedule is not currently payable to the employee because of a higher pay entitlement under another pay schedule.

*Position of record* means an employee's official position (defined by grade, occupational series, employing agency, LEO status, and any other condition that determines coverage under a pay schedule (other than official work-site)), as documented on the employee's most recent Notification of Personnel Action (Standard Form 50 or equivalent) and current position description. A position to which an employee is temporarily detailed is not documented as a position of record. For an employee whose change in official position is followed within 3 workdays by a reduction in force resulting in the employee's separation before he or she is required to report for duty in the new position, the position of record in effect immediately before the position change is deemed to remain the position of record through the date of separation.

*Promotion* means a GS employee's movement from one GS grade to a higher GS grade while continuously employed (including such a movement in conjunction with a transfer).

*Rate of basic pay* means the rate of pay fixed by law or administrative action for the position held by a GS employee before any deductions, including a GS rate, an LEO special base rate, a special rate, a locality rate, and a retained rate, but exclusive of additional pay of any other kind. For the purpose of applying the maximum payable rate rules in §§ 531.216 and 531.221 using a rate under a non-GS pay system as an employee's highest previous rate, *rate of basic pay* means a rate of pay under other legal authority which is equivalent to a rate of basic pay for GS employees, as described in this definition, excluding a rate under § 531.223. (See also 5 CFR 530.308, 531.610, and 536.307.)

*Rate range or range* means a range of rates of basic pay for a grade within an established pay schedule, excluding any retained rate. A rate range may consist of GS rates, LEO special base rates, locality rates, special rates, or, for non-GS employees, similar rates under other legal authority.

*Reassignment* means a change of an employee, while serving continuously in the same agency, from one position to another without promotion or demotion.

*Reemployment* means employment, including reinstatement or another type of appointment, after a break in service of at least 1 full workday.

*Retained rate* means a rate above the maximum rate of the rate range applicable to a GS employee which is payable under 5 CFR part 536 or, for a former member of the Senior Executive Service, under 5 CFR 359.705.

*Special rate* means a rate of pay within a special rate schedule established under 5 CFR part 530, subpart C, or a similar rate for GS employees established under other legal authority (e.g., 38 U.S.C. 7455). The term *special rate* does not include an LEO special base rate or an adjusted rate including market pay under 38 U.S.C. 7431(c).

*Special rate schedule* means a pay schedule established under 5 CFR part 530, subpart C, to provide higher rates of pay for specified categories of GS positions or employees at one or more grades or levels or a similar schedule established for GS employees under other legal authority (e.g., 38 U.S.C. 7455).

*Special rate supplement* means the portion of a special rate paid above an employee's GS rate. However, for a law enforcement officer receiving an LEO special base rate who is also entitled to a special rate, the special rate supplement equals the portion of the special rate paid above the officer's LEO special base rate. When a special rate schedule covers both LEO positions and other positions, the value of the special rate supplement will be less for law enforcement officers receiving an LEO special base rate (since that rate is higher than the corresponding GS rate). The payable amount of a special rate supplement is subject to the Executive Schedule level IV limitation on special rates, as provided in 5 CFR 530.304(a).

*Temporary promotion* means a time-limited promotion with a not-to-exceed date or a specified term.

*Transfer* means a change of an employee, without a break in service of 1 full workday, from one branch of the Federal Government (executive, legislative, or judicial) to another or from one agency to another.

*Where different pay schedules apply* means, in the context of applying the

geographic conversion rule, that an employee's official worksite is changed to a new location that would cause the employee to lose or gain coverage under a location-based pay schedule (*i.e.*, locality rate schedule or special rate schedule) if the employee were to remain in the same position of record.

*Within-grade increase* has the meaning given that term in § 531.403.

[70 FR 31291, May 31, 2005, as amended at 73 FR 66152, Nov. 7, 2008; 73 FR 76847, Dec. 18, 2008]

**§ 531.204 Entitlement to other rates of pay.**

(a) A law enforcement officer is entitled to LEO special base rates in lieu of GS rates at grades GS-3 through GS-10. A law enforcement officer is entitled to the LEO special base rate that corresponds to his or her grade and step. If an employee loses LEO status, the employee is entitled to the GS rate for his or her grade and step unless a higher rate is set under the maximum payable rate rule in § 531.221 or under the pay retention rules in 5 CFR part 536, as applicable. LEO special base rates are used in computing locality rates, as provided in subpart F of this part. A law enforcement officer may be entitled to a special rate that is computed using the underlying GS rate for the LEO's grade and step.

(b) When an employee's GS rate or LEO special base rate is determined under the rules of this subpart, the agency must determine any other rate of basic pay to which the employee is entitled, including a locality rate under subpart F of this part and a special rate under 5 CFR part 530, subpart C, or other legal authority (*e.g.*, 38 U.S.C. 7455). The employee is entitled to the highest applicable rate of basic pay as his or her payable rate. When an employee's special rate is surpassed by a higher locality rate, his or her entitlement to a special rate is terminated, as provided in § 530.303(d).

(c) When application of the rules in this subpart results in setting an employee's payable rate in the highest applicable pay schedule (*e.g.*, a locality rate schedule or a special rate schedule), the agency must determine the employee's underlying GS rate or LEO special base rate, as applicable, based

on that payable rate (*i.e.*, by finding the corresponding underlying rate with the same grade and step (or relative position in range for a GM employee) as the payable rate).

[70 FR 31291, May 31, 2005, as amended at 73 FR 66152, Nov. 7, 2008]

**§ 531.205 Converting pay upon change in location of employee's official worksite.**

When an employee's official worksite is changed to a new location where different pay schedules apply, the agency must convert the employee's rate(s) of basic pay to the applicable pay schedule(s) in the new location before processing any simultaneous pay action (other than a general pay adjustment, as provided in § 531.206). The agency must first set the employee's rate(s) of basic pay in the applicable pay schedule(s) in the new location based on his or her position of record (including grade) and step (or a GM employee's GS rate) immediately before the change in the employee's official worksite. The resulting rate must be used as the existing rate in processing the next simultaneous pay action in the order of precedence, using the applicable pay schedules in the new location. In conjunction with any simultaneous pay actions, the employee's rate(s) of basic pay will then be set based on the employee's new position of record and new official worksite.

[70 FR 31291, May 31, 2005, as amended at 73 FR 66152, Nov. 7, 2008]

**§ 531.206 Order of processing simultaneous pay actions.**

When multiple pay actions with the same effective date affect an employee's rate of basic pay, the actions will be processed in the following order:

(a) Process general pay adjustments before any individual pay action that takes effect at the same time. General pay adjustments include an annual adjustment in the General Schedule under 5 U.S.C. 5303; an adjustment in LEO special base rates; an adjustment of a locality pay percentage under subpart F of this part; the establishment or adjustment of a special rate schedule under 5 CFR part 530, subpart C, or similar legal authority (*e.g.*, 38 U.S.C. 7455); and an adjustment of a retained